



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6167 5769

January 21, 2009

Mr. Randy Sawyer, Director
Contra Costa County Health Services
4333 Pacheco Boulevard
Martinez, California 94553

Dear Mr. Sawyer:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board] conducted a program evaluation of the Contra Costa County Health Services Certified Unified Program Agency (CUPA) on November 18 and 19, 2008. The evaluation was comprised of an in-office program review, and field oversight inspections, by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Contra Costa County Health Services' program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on February 17, 2009.

Cal/EPA also noted during this evaluation that Contra Costa County Health Services has worked to bring about a number of local program innovations, including the implementation of the Green Business Program and the County's Industrial Safety Ordinance. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original Signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Sent via email:

Ms. Marci Christofferson
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P.O. Box 944212
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Mr. Jeff Tkach
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cc: Sent via email:

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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Contra Costa County Health Services

Evaluation Date: November 18 and 19, 2008

EVALUATION TEAM

Cal/EPA: Kareem Taylor
SWRCB: Marci Christofferson
OES: Radhika Majhail
OES: Jeff Tkach
DTSC: Mark Pear

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>The CUPA is reviewing its Inspection and Enforcement (I and E) Plan annually, but it has not updated the plan as needed. Examples:</p> <ul style="list-style-type: none">• The I and E plan contains a scheduled inspection frequency of 3 years for Underground Storage Tanks (USTs) facilities.• The I and E plan does not include the enforcement option "Red Tag" even though Red Tag is used.• The I and E plan contains incorrect citations. <p>CCR, Title 27, Section 15200 (a) and (b)(2) (Cal/EPA and SWRCB)</p>	<p>By February 19, 2009, the CUPA will update its I and E plan.</p> <p>Along with the first progress report, submit the CUPA's updated I and E plan to Cal/EPA.</p>
2	<p>Some of the required forms for the permit to operate are not found in the facility files. The forms that were missing include: monitoring plan, response plan, plot plan (not in any of the reviewed files); UST A & B forms, financial responsibility/CFO letters. Some forms are not for the current owner. Some of the forms are incomplete or lack signatures.</p>	<p>In the future, the CUPA will ensure that UST facility files have the required paperwork. Also, the CUPA will ensure that the paperwork is complete and up-to-date.</p>

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	<p>HSC, Chapter 6.7, Section 25286 (a) (SWRCB) CCR Title 23, Section 2711; CCR Title 23, Section 2805-2809.2 CCR, Title 27 Sections 15185, 15188</p>	
3	<p>The CUPA UST inspection report does not verify compliance with all requirements of Article 3 and 4, but consists of a report of violations only. All items that are in compliance are not part of the report.</p> <p>HSC, Chapter 6.7, Section 25288 (SWRCB) CCR, Title 23, Sections 2712 (e), 2712 (c)</p>	<p>By June 19, 2009, the CUPA shall develop an inspection report format that identifies the requirements of Article 3 and 4, that when completed, documents compliance and non-compliance. Violation summaries and return –to-compliance forms for minor violations can still be used along with this as part of the complete report.</p>
4	<p>The CUPA is not exercising a graduated series of enforcement against some UST and hazardous waste generator facilities cited for chronic and/or severe violations. Chronic and/or severe violations are not escalated to formal enforcement. Example:</p> <ul style="list-style-type: none"> • Eagle Gas had two instances of raised sensors noted at prior inspections, but, no formal enforcement was initiated, and at the 11/17/08 inspection raised sensors were again found. • At Top Gas and Food, raised sensors was cited, but no formal enforcement was initiated. • The VA Hospital of Northern CA did not properly characterize, label, and dispose of chemotherapy waste which was offered to an unlicensed transporter. No formal enforcement was initiated. <p>CCR Title 27, Section 15200 (a)(9) (SWRCB and DTSC) HSC, Chapter 6.7, Section 25299 (a)(9) HSC, Chapter 6.5, Sections 25110.8.5 and 25117.6 CCR, Title 22, Section 66260.10 and E0-02-003-PP</p>	<p>In the future, the CUPA will exercise a graduated series of enforcement on facilities that have chronic and/or severe violations.</p> <p>The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for refresher training may include covering the Cal/EPA “Violation Classification Guidance Document for Unified Program Agencies,” which is available on the Cal/EPA website under Unified Program - Publications and Forms.</p> <p>By February 19, 2009, the CUPA will provide violation determination training to its inspectors.</p>
5	<p>The CUPA issues UST operating permits based on fee payment and not compliance.</p> <p>HSC, Chapter 6.7, Section 25285(b) (SWRCB) CCR Title 23 Section 2712(e)</p>	<p>By June 19, 2009, the CUPA shall develop a written procedure as part of the I and E plan to ensure that a UST facility is in compliance before issuing the Permit to Operate.</p>

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CUPA Representative	<u>Randy Sawyer</u> (Print Name)	<u>Original Signed</u> (Signature)
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Evaluation Team Leader	<u>Kareem Taylor</u> (Print Name)	<u>Original Signed</u> (Signature)
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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

- 1. Observation:** The CUPA's fee dispute resolution procedure and administrative procedures have not been reviewed and updated since the inception of the CUPA and may not reflect the procedures that the CUPA currently implements. The CUPA is aware of the problem and is working to update the documents.

Recommendation: Cal/EPA recommends that the CUPA review its fee dispute resolution procedure and administrative procedures and update them. The administrative procedures to be reviewed and updated are as follows:

- Public participation procedures
- Records maintenance procedures that include the identification of the records maintained, minimum retention times, and archive procedures.
- Procedures for responding to requests for information from government agencies with a legal right to access the information, or from emergency responders, including methods to prevent the release of confidential and trade secret information.
- Procedures for forwarding the HMRRP information in accordance with Health and Safety Code sections 25503.5(d) and 25509.2(a)(3).
- Financial management procedures

- 2. Observation:** The CUPA has performed 18 agricultural handler inspections with the County Agricultural Department. The CUPA and the County Agricultural Department is striving to improve coordination and consistency in regulating agricultural handlers. There are 21 agricultural handlers in Contra Costa County.

Recommendation: none

- 3. Observation:** During the file review, it was observed that some of the business plans were incomplete. Of the fifteen files reviewed, three files were missing one or more of the following elements: Emergency Response Plan, Site Map, and Employee Training Program

Recommendation: A checklist containing all of the business plan components may be used to avoid such situations in the future.

- 4. Observation:** The CUPA has improved the frequency of its inspections with regard to its I and E plan. The CUPA has inspected 2077 hazardous waste generators that have been identified by the CUPA. The last three annual inspection summary reports indicate the following:

- 1727 hazardous waste generators were identified in Fiscal Year 07/08 of which 320 were inspected,

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- 1904 hazardous waste generators were identified in Fiscal Year 06/07 of which 1029 were inspected, and
- 1858 hazardous waste generators were identified in Fiscal Year 05/06 of which 728 were inspected.

The CUPA has inspected 100% of all of its known facilities generating hazardous waste over the past three fiscal years.

Recommendation: Please continue with your established inspection completion rate with in the hazardous waste program.

5. **Observation:** Some of the CUPA's inspection reports lack detailed narratives of the inspector's observations; they also lack a developed description of a facility's operation and/or manufacturing processes occurring on site.

Recommendation: The inspector should develop the observation section of the report to also include facility operations occurring on site so that anyone unacquainted with the facility who may read the report may gain a better appreciation and understanding of the services provided and the industrial processes occurring at the facility.

6. **Observation:** Inspectors characterize and determine the total amount of hazardous waste that is generated by a business.

Recommendation: Please continue the practice of classifying whether a generator's status is LQG, SQG, or CESQG. This will assist also with the inspector assessing which regulations are applicable to which class of generators.

7. **Observation:** Inspection reports lack the incorporation of citations of the regulations and statutes applicable to tiered permitted facilities from Title 22 and the Health & Safety Code.

Recommendation: The CUPA may wish to incorporate such citations for the Tiered Permitted Facility Checklist as the CUPA has already done for the Hazardous Waste Generator Checklist.

8. **Observation:** The CUPA's hazardous waste generator inspection reports provide checkboxes for distinguishing between Class I, Class II, and minor violations; however, the other program element inspection reports do not contain violation classification checkboxes. Some hazardous waste inspection reports lacked classification of the violations observed. The CUPA, in one instance, failed to classify a release of antifreeze which was immediately cleaned up on site from poor facility operation and maintenance at A & S Muffler. In another inspection report, violations found at Cemex were left unclassified as well.

Recommendation: Please have inspectors begin classifying violations on the inspection reports. Modify the non-hazardous waste inspection reports so that violations can be classified as Class I, Class II, and minor.

9. **Observation:** There does not appear to be consistency between inspectors when writing the UST inspection reports (violation report). Some use the violations checklist to show the violation, others write

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out the violation in comment form. Some inspection reports do not show a return to compliance date. Some reports do not state what is required to return to compliance.

Recommendation: The SWRCB recommends that inspectors be trained to conduct consistent inspections, and to document their findings to include comments, observations, what is needed to return to compliance, and to provide a date for return-to-compliance, etc. When new inspection forms are developed, training should be provided to ensure consistency between inspectors when conducting inspections and documenting findings.

10. Observation: UST installation approvals are being made, but, there does not appear to be a set standard for ensuring that all criteria required for installing new UST's are being reviewed.

Recommendation: The SWRCB recommends that a review process, that includes a review checklist (or other tool) be used to ensure that new UST installations meet all the required criteria prior to approving the installation permit.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA has completed several formal enforcement cases. It typically uses “Stipulation and Order” agreements and Administrative Enforcement Orders to provide owners/operators who are in violation with the opportunity to pay a smaller penalty amount if they return to and remain in compliance for a specific time period.
 - A case was settled against Pleasant Hill Recycling Center for \$9000 for business plan violations. The Consent Order allowed the owner/operator to pay only \$4500 initially. The additional \$4500 payment will be waived if the initial payment was received by the CUPA and the facility remained in compliance for 3 years.
 - A case was settled against McHugh Auto Wrecking for \$40,000 for business plan and hazardous waste violations. The Stipulation and Order allowed the owner/operator to pay only \$20,000 initially. The additional \$20,000 payment will be waived if the facility remained in compliance for 3 years.
 - A case was settled against Top Gas and Food for \$50,000 for business plan, UST and hazardous waste violations. The Consent Order allowed the owner/operator to pay only \$2000 initially. The additional \$48,000 payment would be waived if the initial payment was received by the CUPA and the facility returned to compliance by the inception date of the Consent Order.
2. The CUPA has implemented the Green Business Program for the past 10 years. The program recognizes businesses that are in not only in regulatory compliance, but also meet standards for reducing waste, preventing pollution, and conserving energy, water, and other materials. The Green Business Program is implemented in partnership with 24 other environmental agencies and cities. There are currently 316 Green Businesses in Contra Costa County.
3. Contra Costa County’s Industrial Safety Ordinance (ISO) expands the requirements of the CalARP program by doing the following:
 - Requires a CalARP facility to submit a Safety Plan which covers all processes, not just the processes documented in the Risk Management Plan.
 - Requires a CalARP facility to participate in additional prevention programs such as incident investigation (Root Cause Analysis), Human Factors Program, Security and Vulnerability Analysis. CalARP facilities must also consider inherently safer systems.
4. The CUPA has implemented the Clean Water Program which incorporates storm water inspections into the Unified Program inspections in unincorporated areas. During Clean Water Program inspections, facilities are inspected for illicit discharges to storm drain systems.
5. The CUPA director is a member of the CUPA Forum Board. Other CUPA staff regularly participate in the UST TAG meetings.

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6. The CUPA has begun to bring businesses online by requiring owners/operators to enter business plan information into Unidocs. This is a transition step towards the full implementation of e-reporting.
7. The CUPA has implemented a very effective way of tracking and conducting CalARP inspections, RMP submissions, and RMP reviews for the 41 facilities in the County. It utilizes an excel spreadsheets to develop the inspection schedule for the next three years. In addition, the CUPA has developed an 'Audit Plan Packet' that is sent out a month in advance to the facilities that contains questions to be answered and other information required during the audit. The CUPA has a great working relationship with facility personnel.